

06.03.2026
Court No.35.
D/L.37&38.
Rakib

CRM (DB) 2826 of 2024

With

CRM (DB) 2827 of 2024

In Re: An Application for Cancellation of Bail under Section 439 (2) of the Code of Criminal Procedure, 1973/Under Section 483(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

And

In the matter of : Sujit Nag.

.....Petitioner.

Mr. Sourabh Guhathakurata
Mr. Abhratanu Sarkar
Mr. Aftab Munshi

....for the petitioner.

Mr. Rudradipta Nandy

....for the State.

Mr. Shibaji Kr. Das
Ms. Deblina De

....for the O.P. No.2.

The present criminal case being Kalyani Police Station case no. 502 of 2022 dated 04.09.2022 was registered for investigation under Sections 406/420/506 of the Indian Penal Code. In connection with the said case dissatisfaction was expressed by the present petitioner and on an order being passed by the Hon'ble High Court, Calcutta the case was transferred to the ADG, CID, West Bengal for investigation. Subsequently, in course of investigation the investigating agency prayed for addition of Sections 467/468/471/120B of the Indian Penal Code. Such addition for sections was by way of a prayer dated 02.11.2023 before the learned A.C.J.M., Kalyani.

Records reflect that the accused/opposite parties approached the Hon'ble Supreme Court on repeated occasions. However, no steps were taken before the learned A.C.J.M., Kalyani and consequently on 21.11.2023 for non-compliance of the conditions imposed while granting bail, the bail of the accused persons were cancelled and warrant of arrest were issued. Execution return was fixed on 03.11.2024, subsequently, on 28.02.2024 it is reflected that one of the accused surrendered before the learned A.C.J.M. Kalyani and on an assessment of the same, as also the order passed in SLP (Crl.) 52682/2023 prayer for bail of the petitioner was allowed and the warrant of arrest was recalled.

The order dated 01.03.2024 reflects that charge-sheet was submitted against three accused persons namely, Somnath Biswas, Sahadeb Biswas and Suman Biswas under Sections 406/420/506 of the Indian Penal Code and added Sections 467/468/471/120B of the Indian Penal Code. So far as the other accused Shibani Biswas is concerned charge-sheet under Sections 406/420/506/34 of the Indian Penal Code. Prayer was also advanced for submission of supplementary charge-sheet. On 22.02.2024 again prayer for issuance of harsher process of law was issued against Sahadeb Biswas. Learned Court was pleased to keep such an application of the investigating agency pending.

The main thrust of contention of the learned advocate appearing for the petitioner is that since added sections were advanced and the investigation was under sections which prescribed punishment for life imprisonment the bail of the accused ought to be cancelled.

I have taken into account the series of orders passed by the Hon'ble High Court as well as the Hon'ble Supreme Court and from the inception it was directed that if the investigating agency requires custody it would be the prerogative of the investigating agency and obviously such prayer cannot be without notice being served upon the accused persons. The said order obviously is different from the cases where an accused misuses the liberty granted or a post bail conduct. Petitioner herein is on the merits of the issue that only for added sections the bail of accused persons' ought to be cancelled. The same is completely different from the steps which have been taken by the learned Magistrate. There is already an observation of the Hon'ble Supreme Court in Criminal Appeal no. 1365/2025 that since charge-sheet has been filed on 29.02.2024 unless the bail granted to the appellant is cancelled on the basis of the observations made by the High Court the appellant cannot be arrested.

Be that as it may, from the records of the case, I find that there are both issues involved (i) the case is based on the documents where the process of investigation is continuing for a considerable period of time since the year 2022. (ii) The accused/opposite party as well as the petitioner has been repeatedly canvassing their grievance either before the High Court or before the Hon'ble Supreme Court.

It is a fact also that the Magistrate on several occasions had to issue harsher process of law for non-compliance of the conditions of bail. However, for simply addition of sections, the bail cannot be automatically cancelled, this is a settled proposition of law. In case, investigating agency requires custody it is for the investigating

agency to express the purposes for which they require custody, is the only principle on which the Magistrate or any Court can decide regarding the legality of subsequent orders of cancellation of bail or arrest of the accused.

In this case, I find that against one of the accused already harsher process of law has been prayed for on behalf of the investigating agency which is reflected from the order dated 22.02.2024 (until the same has been subsequently dealt with or exhausted).

So far as the merits of the case are concerned, I do not find any reason to cancel the bail automatically because of addition of sections. But so far as the post-bail conduct is concerned it will be open for the learned Magistrate to assess the conduct of the accused persons as the investigation is still continuing after submission of the charge-sheet. However, to that effect application, if any is made by the investigating agency to the learned Magistrate, learned Magistrate would issue notice upon the affected party or the accused concerned and thereafter necessary orders in consonance with the provisions of law may be passed.

So far as the present applications being CRM (DB) 2826 of 2024 and CRM (DB) 2827 of 2024, I am not inclined to interfere. Parties would be at liberty to act in terms of the directions made above.

Report submitted by the State be kept with the record.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)